

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

MICHAEL L. REESE,

Civil No. 07-1723-AS

Petitioner,

ORDER

v.

DON MILLS,

Respondent.

ASHMANSKAS, Magistrate Judge.

Petitioner, an inmate at the Eastern Oregon Correctional Institution, brings this habeas corpus action pursuant to 28 U.S.C. § 2254 *pro se*. on November 30, 2007, this court issued an order requiring Petitioner to show cause why his Petitioner should not be summarily dismissed on the basis that it is successive, and that this court lacks jurisdiction to consider the Petitioner absent authorization from the Ninth Circuit Court of Appeals.

Currently before the court is Petitioner's Response to the Order to Show Cause.

In his response, Petitioner argues his Petition is not successive because it is a "continuation" of prior claims, and because a fundamental miscarriage of justice will result if the Petition is dismissed. Petitioner's arguments are without merit. In the absence of authorization from the Ninth Circuit Court of Appeals, this court cannot exercise jurisdiction over Petitioner's claims, regardless of their bases. 28 U.S.C. § 2244(b)(3)(A).

Also in his response, Petitioner seeks reconsideration of the order denying appointment of counsel and an order holding this case in abeyance while he applies to the Ninth Circuit for authorization to bring his successive claims. To the extent Petitioner seeks reconsideration of the order denying appointment of counsel, his request is DENIED. To the extent Petitioner seeks additional time to obtain authorization from the Ninth Circuit, however, his request is GRANTED.

IT IS ORDERED that this case shall be STAYED pending Petitioner's attempt to obtain authorization from the Ninth Circuit. Petitioner shall file a written report indicating the status of his request no later than April 11, 2008. Petitioner is

advised that if he fails to file a status report by April 11, 2008, this action shall be dismissed.

IT IS SO ORDERED.

DATED this 18th day of December, 2007.

/s/ Donald C. Ashmanskas
Donald C. Ashmanskas
United States Magistrate Judge